

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

In re:

Dana Charles Archibald

Marcia Lynn Archibald

Soc.Sec.No.: xxx-xx-7830 and xxx-xx-2588

Mailing address: 311 Homestead Park Drive, Apex,
NC 27502-0000

Case No. 08-08352-8-ATS

Chapter 13

Debtors.

OPPOSITION TO MOTION TO DISMISS

NOW COME the DEBTORS, by and through counsel undersigned, who hereby oppose the Motion to Dismiss, dated 2/27/09, filed by the Chapter 13 Trustee, in its entirety. In response to the specific issues raised in the Trustee's Motion, the Debtors offer the following:

Failure to File a Confirmable Plan

The Debtors believe that the Chapter 13 plan, as already proposed in this case, meets the standards for confirmation, because they have filed the Motion to Avoid the mortgage claim that is causing the plan to be infeasible.

WHEREFORE, the Debtors pray that the Court deny the Trustee's Motion to Dismiss, based upon the response and proposal set forth above; and that it set this matter for hearing; and that it grant such other and further relief which it deems just, proper and equitable.

Dated: March 18, 2009.

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s John T. Orcutt

John T. Orcutt, Attorney
N.C. State Bar No.: 10212
6616-203 Six Forks Road
Raleigh, NC 27615
Tel. No.: (919) 847-9750

CERTIFICATE OF SERVICE

I, Gabrielle Morrison, of the Law Offices of John T. Orcutt, P.C., do hereby certify, under penalty of perjury, that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age; and that on March 18, 2009, I served copies of the foregoing Opposition to Motion to Dismiss, by automatic electronic noticing upon the following Trustee:

John F. Logan
Chapter 13 Trustee

by regular U.S. mail, upon the Debtors at the following address:

Dana Charles Archibald
Marcia Lynn Archibald
311 Homestead Park Drive
Apex, NC 27502-0000

/s Gabrielle Morrison

Gabrielle Morrison